

Agency : SMALL BUSINESS ADMINISTRATION

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**Comment :** I submit this comment with respect to the recent changes made to 13 C.F.R. §121.702. This section can be further modified to include worthy small business concerns ( SBCs ) that, despite the recent changes, remain ineligible for the SBIR/STTR program. Specifically, the eligibility requirements could be changed to allow the ownership of a for-profit business concern to be at least 51% owned and controlled in aggregate by one or more individuals who are citizens of, or permanent resident aliens in, the United States, and state-affiliated venture capital entities.

This is relevant in the context of companies that are spun-off from universities and subsequently obtain venture funding from state-affiliated entities. It is common for a company to be formed around technology developed at a university. In return for the company receiving an exclusive license (or ownership) of the technology, the university frequently takes an equity position in the company. To obtain seed capital to fund start-up operations, some of these spin-off companies obtain funding from a state-affiliated venture capital entity, and typically give up equity as a result. Unfortunately, it is often the case these companies are no longer owned by at least 51% individuals. Under current SBIR/STTR eligibility rules, such a company, even though a true SBC, is proscribed from obtaining SBIR/STTR assistance. In instances such as this, state economic assistance dollars are mutually exclusive from federal economic assistance dollars.

Allowing the ownership of state-affiliated venture capital entities to be considered aggregately with individual ownership in determining SBIR/STTR eligibility is wholly consistent with the intent and purpose of the Small Business Innovation Development Act of 1982 ( SPIDA ), which is two-pronged: (1) to encourage small business participation in R&D to stimulate the American economy; and (2) to ensure that the R&D advances resulting from the SBIR/STTR program remain in and benefit the United States. Consistency with the intent and purpose of SPIDA is evident by examining each prong separately:

(1) One of the goals of state-affiliated venture capital entities is to fund small business R&D in

hopes of stimulating the state economy when such R&D yields a product that can be commercialized. As with the SBIR/STTR program, state-affiliated venture capital entities typically seek to fund businesses for whom venture funding is scarce. As a result, it is SBCs that are the recipients of state venture capital, not big business. This matches the intent and purpose of SPIDA to encourage small business participation in R&D to stimulate the American economy.

(2) Another of the goals of state-affiliated venture capital companies is to ensure that the benefits of state assistance accrue to the state. Since such assistance ultimately comes from the state taxpayers, the ultimate benefit should accrue to those same taxpayers. Consequently, companies that receive state venture assistance are typically required to maintain residence in that state. Any job creation therefore stays in-state, thereby benefiting the state economy. This matches the intent and purpose of SPIDA that the R&D advances remain in and benefit the United States.

There are two major benefits that would arise from implementing the suggested eligibility modification: (1) More SBCs would be eligible for SBIR/STTR assistance, thereby resulting in greater competition for SBIR/STTR funding. This would enhance the likelihood of the federal government funding the best opportunities for spurring the American economy. (2) State and federal attempts to bring innovative technologies to the marketplace would be harmonized. Rather than being mutually exclusive, state and federal dollars could work in concert to fund SBCs that are seeking to commercialize innovative technologies. Success would yield both state and federal economic benefits.